UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,888	09/17/2003	Xin Xue	SONY-26400	9089

7590 05/05/2010

Jonathan O. Owens
HAVERSTOCK & OWENS LLP
162 North Wolfe Road
Sunnyvale, CA 94086

EXAMINER	
BLAIR, DOUGLAS B	

ART UNIT	PAPER NUMBER
2442	

MAIL DATE	DELIVERY MODE
05/05/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/666,888	XUE ET AL.	
	Examiner	Art Unit	
	DOUGLAS B. BLAIR	2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 April 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20 and 29-51* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20 and 29-51* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/28/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 4/13/2010 have been fully considered but they are not persuasive. The applicant argues that Cowan does not teach "increasing a subscriber version identifier" with respect to claim 29. The Examiner agrees that Cowan does not explicitly teach the concept of "increasing a subscriber version identifier" but contends that the concept is made obvious by the combination of Cowan and Nguyen. Nguyen shows a comparison of software version numbers by determining which one is larger. If the version is lower then it is updated, thus it is higher after the update and therefore has increased. This should be evident to anyone reading the reference as Nguyen's invention would be pointless without an "increase".

Even if the applicant were to narrow the claims to incrementing some specific number, such a concept would be made obvious by the teachings of col. 37, lines 13-18 of U.S. Patent Number 5,835,911 to Nakagawa et al which clearly shows that incrementing a version number after a software update is not novel.

As to the argument that Fenton has nothing to do with version based content distribution, the Examiner contends that the limitations of claims 15-17 have nothing do with a version based content distribution either. If the applicant had claimed some specific manner in which the versioning affects the tree structure then the applicant would have a point. The applicant, however, has only claimed the manner in which the version data is stored which has no effect on the version in the preceding claims is implemented. Fenton is relied upon to show that the applicant's claimed data structure is not novel. There is nothing precluding the data obtained by Cowan from being stored in a similar manner to that disclosed by Fenton.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-14, 18-19, 29-39, 41-47, and 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,848,064 to Cowan in view of U.S. Patent Number 7,117,482 to Nguyen et al.

As to claim 1, Cowan teaches a version based content distribution system comprising: content comprising a version number (col. 2, lines 37-55); a syndicator, wherein the syndicator is configured to transmit the version number (col. 2, lines 37-55); a subscriber content comprising a subscriber version number (col. 2, lines 37-55); a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator if the version number is different from the subscriber content version number (col. 2, lines 37-55); however Cowan does not explicitly teach the comparison determining which version is larger.

Nguyen teaches a method for comparing software version number by determining which number is larger and increasing the subscriber content number (See Abstract).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Cowan regarding subscriber version management with the teachings of Nguyen regarding comparing the size of version numbers

because Nguyen provides a specific example of the broad comparison method discussed by Cowan. One of ordinary skill in the art would be able to compare numbers to determine which one is greater.

As to claim 2, Cowan downloads from a server.

As to claim 3, Cowan teaches a display.

As to claim 4-6 and 37-39, Cowan teaches a mobile device which is broad enough to cover a PDA.

As to claim 7, Cowan teaches a "predetermined transfer method" as claimed.

As to claim 8-10, the transfer in Cowan is considered application driven, isochronous, and one way.

As to claim 11, Cowan uses a network so one of ordinary skill would recognize the use of an "IP method" as broadly claimed.

As to claim 12, In Cowan the user controls what is downloaded. This is considered a preference.

As to claims 13-14, these features are inherent to a web server.

As to claims 18-19, they are rejected for the same reasoning as claims 32-33.

As to claim 29-34, they are rejected for the same reasoning as claim 1.

Claims 35 and its dependents are rejected for the same reasoning as claim 1 and its dependents.

Claims 44-47 and 49-51 are rejected for similar reasoning.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,848,064 to Cowan in view of U.S. Patent Number 6,990,498 to Fenton et al.

As to claims 15-17, Cowan teaches claim 1; however Cowan does not discuss the use of a tree structure.

Fenton teaches the tree structure claimed in claims 15-17 (See Abstract for example).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Cowan regarding the distribution of content by comparing version numbers with the teachings of Fenton regarding a tree structure because a tree structure is an efficient method for providing data to users.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,848,064 to Cowan in view of U.S. Patent Number 6,119,165 to Li et al.

As to claim 20, Cowan makes obvious claim 1; however Cowan does not explicitly teach a proxy as claimed in claim 20.

Li teaches a proxy as claimed in claim 20.

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Cowan regarding the distribution of content by comparing version numbers with the teachings of Li regarding using a proxy in a separate computer because a proxy allows a client to access the internet using a singular portal (Background of Li).

Claims 31, 40, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,848,064 to Cowan in view of U.S. Patent Application Publication Number 2001/0042073 by Saether et al.

As to claim 31, Cowan anticipates claim 29; however Cowan does not teach a version identifier comprising a date and time stamp.

Saether teaches a version identifier comprising a time stamp (paragraph 50).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Cowan regarding the distribution of content by comparing version numbers with the teachings of Saether regarding version comprised of time stamps because time stamps are one possible specific implementation of the broad disclosure on version numbers provided by Cowan.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Lee can be reached on (571) 272-3967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/
Primary Examiner, Art Unit 2442